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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-488*

13 **RANDY KENNETH BROMENSCHENKEL,**
14 **a.k.a. RANDY BROMENSCHENKEL**
808 Balboa Avenue, Apt. 1
Capitola, CA 95010

A C C U S A T I O N

15 Registered Nurse License No. 550446

Respondent.

16
17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about December 10, 1998, the Board issued Registered Nurse License Number
22 550446 to Randy Kenneth Bromenschenkel, also known as Randy Bromenschenkel
23 ("Respondent"). The license was in full force and effect at all times relevant to the charges
24 brought herein and will expire on February 28, 2014, unless renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
28

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
6 may renew an expired license at any time within eight years after the expiration.

7 STATUTORY PROVISIONS

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed nurse or
10 deny an application for a certificate or license for the following:

11 (a) Unprofessional conduct.

12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by another
14 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action.

15 6. Code section 2762, states, in pertinent part:

16 In addition to other acts constituting unprofessional conduct within the
17 meaning of this chapter is its unprofessional conduct for a person licensed under this
chapter to do any of the following:

18 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
19 a licensed physician and surgeon, dentist, or podiatrist administer to himself or
20 herself, or furnish or administer to another, any controlled substance as defined in
Division 10 (commencing with Section 11000) of the Health and Safety Code or any
dangerous drug or dangerous device as defined in Section 4022.

21 DRUG

22 7. **Vicodin** is compound consisting of 5 mg hydrocodone bitartrate also known as
23 dihydrocodeinone and 500 mg acetaminophen per table, and is a schedule III controlled substance
24 as designated by Health and Safety Code section 11056, subdivision (e)(4) and a dangerous drug
25 pursuant to Code section 4022, in that under federal and state law it requires a prescription.

26 COST RECOVERY

27 8. Code section 125.3 provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Out-of-State Discipline)**

5 9. Respondent is subject to discipline under Code section 2761, subdivision (a)(4), in
6 that effective January 4, 2012, pursuant to a Consent for Entry of Voluntary Surrender and Order,
7 attached hereto as **Exhibit A**, the Arizona State Board of Nursing accepted the voluntary
8 surrender of Respondent's Registered Nurse License No. 126295 for no less than five (5) years in
9 lieu of a formal hearing. The Order was based on the following:

10 a. On or about October 15, 2010, while employed as a registered nurse at Remuda
11 Ranch in Wickenburg, Arizona, Respondent took Vicodin tablets from his employer's expired
12 locked control medication box for his own personal use.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Obtained and Possessed Controlled Substance)**

15 10. Respondent is subject to discipline under Code section 2762, subdivision (a), in that
16 on or about October 15, 2010, while employed as a registered nurse at Remuda Ranch in
17 Wickenburg, Arizona, Respondent obtained and possessed Vicodin tablets from his employer's
18 expired locked control medication box for his own personal use. Respondent did not have a valid
19 prescription for the Vicodin.

20 **PRAYER**

21 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 550446, issued to Randy
24 Kenneth Bromenschenkel, also known as Randy Bromenschenkel;

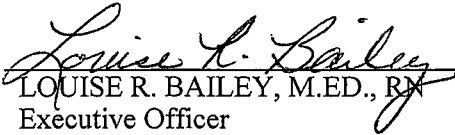
25 2. Ordering Randy Kenneth Bromenschenkel, also known as Randy Bromenschenkel, to
26 pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of
27 this case, pursuant to Code section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: December 13, 2012


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

Janice K. Brewer
Governor



Joey Ridenour
Executive Director

Arizona State Board of Nursing

4747 North 7th Street, Suite 200
Phoenix AZ 85014-3655
Phone (602) 771-7800 Fax (602) 771-7888
E-Mail: arizona@azbn.gov
Home Page: <http://www.azbn.gov>

AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on **RANDY KENNETH BROMENSCHENKEL**. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 4747 N. 7th Street, Suite 200, Phoenix, Arizona 85014-3655 on January 6, 2012.

SEAL

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

ARIZONA STATE BOARD OF NURSING
4747 North 7th Street, Suite 200
Phoenix, Arizona 85014-3655
602-771-7800

2012 JAN -3 AM 9:32

IN THE MATTER OF THE REGISTERED
NURSE LICENSE NO. RN126295

ISSUED TO:

RANDY KENNETH BROMENSCHENKEL,

RESPONDENT.

CONSENT FOR ENTRY OF
VOLUNTARY SURRENDER

ORDER NO. 1010011

A complaint charging Randy Kenneth Bromenschenkel ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. § 32-1605.01(D), Respondent voluntarily surrenders his license for a minimum of five years.

Based on the evidence before it, the Board makes the following Findings of Fact, Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued registered nurse license no. RN126295.
2. On or about October 19, 2010 the Board received a complaint from the Director of Nursing at Remuda Ranch in Wickenburg, Arizona alleging that on or about October 18, 2010 Respondent reported that he had taken Vicodin tablets from the expired locked control medication box while working at Remuda Ranch, on or about October 15, 2010 for personal use.
3. On or about October 20, 2010 and on or about January 3, 2011 Respondent informed the Board that he had taken Vicodin from Remuda Ranch's expired locked control medication box on or about October 15, 2010 and while employed there.

4. Respondent has a history of substance use disorder.

5. On or about June 2011, Respondent underwent a substance abuse evaluation with Scott Sindelar, PhD, a Board approved evaluator. Dr. Sindelar opined that Respondent's recent diversion and misuse of non-prescribed narcotic medication suggests, at a minimum, a lapse in judgment but may also reflect the possibility of additional psychiatric or psychological traits and/or a lapse in sobriety.

6. Dr. Sindelar recommended Respondent undergo psychological treatment with a licensed psychologist who specializes in substance abuse treatment and random drug testing.

7. On or about December 19, 2011, Respondent requested to voluntary surrender his license.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

1. The conduct and circumstances described in the Factual Allegations constitute unprofessional conduct pursuant to A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601(18) “Unprofessional conduct” includes the following whether occurring in this state or elsewhere: (d) (Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public) (effective October 14, 2009)

2. The conduct and circumstances described in the Factual Allegations constitute unprofessional conduct pursuant to A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601(18) “Unprofessional conduct” includes the following whether occurring in this state or elsewhere: (h) (committing an act that deceives, defrauds or harms the public) (effective October 14, 2009).

3. The conduct and circumstances described in the Factual Allegations constitute unprofessional conduct pursuant to A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601(18) “Unprofessional conduct” includes the following whether occurring in this state or elsewhere: (j)

1 violating a rule that is adopted by the board pursuant to this chapter, specifically A.A.C. R. 4-19-403
2 (16)(removing, without authorization, a narcotic, drug, controlled substance, supply, equipment, or
3 medical record from any health care facility, school, institution, or other work place location)
4 (effective February 2, 2009).
5

6 4. The conduct and circumstances described in the Factual Allegations constitute
7 unprofessional conduct pursuant to A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601(18)
8 "Unprofessional conduct" includes the following whether occurring in this state or elsewhere: (j)
9 violating a rule that is adopted by the board pursuant to this chapter, specifically A.A.C. R. 4-19-403
10 (18) (obtaining, possessing, administering or using any narcotic, controlled substance or illegal drug
11 in violation of any federal or state criminal law, or in violation of the policy of any health car facility,
12 school, institution or other work location at which the nurse practice) (effective February 2, 2009).
13
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15 5. The conduct and circumstances described in the Factual Allegations constitute
16 unprofessional conduct pursuant to A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601(18)
17 "Unprofessional conduct" includes the following whether occurring in this state or elsewhere: (j)
18 violating a rule that is adopted by the board pursuant to this chapter, specifically A.A.C. R. 4-19-403
19 (31) (practicing in any other manner that gives the Board reasonable cause to believe the health of a
20 patient or the public may be harmed) (effective February 2, 2009).
21
22

23 GENERAL PROVISIONS

24 The conduct and circumstances described in the Findings of Fact constitute sufficient cause
25 pursuant to A.R.S. §§ 32-1605.01(D) and 32-1664(N) to take disciplinary action against Respondent's
26 license to practice as a registered nurse in the State of Arizona.
27

28 Respondent admits the Board's Findings of Fact, Conclusions of Law.
29

1 In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order
2 and waives all rights to a hearing, rehearing, appeal or judicial review relating to this matter.

3 Respondent further waives any and all claims or causes of action, whether known or unknown, that
4 Respondent may have against the State of Arizona, the Board, its members, offices, employees and/or
5 agents arising out of this matter.
6

7 Respondent understands that all investigative materials prepared or received by the Board
8 concerning these violations and all notices and pleadings relating thereto may be retained in the
9 Board's file concerning this matter.
10

11 Respondent understands that the admissions in the Findings of Fact are conclusive evidence of
12 a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any
13 future disciplinary matter.
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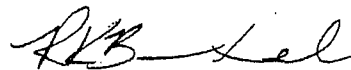
15 Respondent understands the right to consult legal counsel prior to entering into the Consent
16 Agreement and such consultation has either been obtained or is waived.
17

18 Respondent understands that this voluntary surrender is effective upon its acceptance by the
19 Executive Director or the Board and by Respondent as evidenced by the respective signatures thereto.
20 Respondent's signature obtained via facsimile shall have the same effect as an original signature.
21 Once signed by Respondent, the agreement cannot be withdrawn without the Executive Director or
22 the Board's approval or by stipulation between Respondent and the Executive Director or the Board.
23 The effective date of this Order is the date the Voluntary Surrender is signed by the Executive
24 Director or the Board and by Respondent. If the Voluntary Surrender is signed on a different date, the
25 later date is the effective date.
26
27

28 Respondent understands that Voluntary Surrender constitutes disciplinary action. Respondent
29 also understands that he may not reapply for re-issuance during the period of Voluntary Surrender.

Respondent agrees that he may apply for re-issuance after the period of voluntary surrender under the following conditions, and must comply with current law at the time of their application for re-issuance:

The application for re-issuance must be in writing and shall contain therein or have attached thereto substantial evidence that the basis for the voluntary surrender has been removed and that the re-issuance of the license does not constitute a threat to the public's health, safety and welfare. The Board may require physical, psychological, or psychiatric evaluations, reports and affidavits regarding Respondent as it deems necessary. These conditions shall be met before the application for re-issuance is considered.

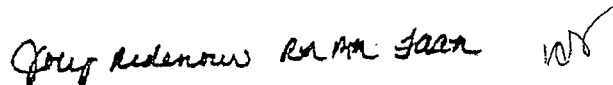


Randy Bromenschenkel
Respondent

Date: 12-29-11

ARIZONA STATE BOARD OF NURSING

SEAL



Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

Dated: January 4, 2012

ORDER

Pursuant to A.R.S. § 32-1605.01(D), the Board hereby accepts the Voluntary Surrender of registered nurse license number RN126295, issued to Randy Kenneth Bromenschenkel. This Order of Voluntary Surrender hereby entered shall be filed with the Board and shall be made public upon the

1 effective date of this Consent Agreement. Respondent shall not practice in Arizona under the
2 privilege of a multistate license.

3 IT IS FURTHER ORDERED that Respondent may apply for re-issuance of said license after a
4 period of five years.
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8 SEAL

ARIZONA STATE BOARD OF NURSING

9 *Joey Ridenour R.N. M.N. F.A.A.N.* *WR*

10 _____
11 Joey Ridenour, R.N., M.N., F.A.A.N.
12 Executive Director

13 Dated: January 4, 2012
14

15 JR/KV/lg

16
17 COPY mailed this 4/13 day of January 2012, by First Class Mail to:

18 Randy Bromenschenkel
19 16772 W Bell Road #110-235
20 Surprise, AZ 85374

21 Signed in the Board Office this 4/11 day of January, 2012.
22

23
24
25 By: Llysia Gauntt
26 Hearing Department Staff
27
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